

A RESOLUTION**BY CITY UTILITIES COMMITTEE**

A RESOLUTION AUTHORIZING THE MAYOR OR DESIGNEE TO ENTER INTO AN APPROPRIATE AGREEMENT FC-6005007982, RIGHT-OF-WAY LICENSE AGREEMENT WITH NORFOLK SOUTHERN RAILWAY COMPANY, ON BEHALF OF THE DEPARTMENT OF WATERSHED MANAGEMENT, IN AN AMOUNT NOT TO EXCEED ONE HUNDRED FORTY TWO THOUSAND EIGHT HUNDRED SEVENTY FOUR DOLLARS AND NO CENTS (\$142,874.00). ALL CONTRACTED WORK SHALL BE CHARGED TO AND PAID FROM FUND ACCOUNT CENTER NUMBER: 2J28 (2004 WATER AND WASTEWATER BOND) 572001 (EASEMENTS) Q38102679999 CENTER (CS0-WEST TUNNELS).

WHEREAS, Ordinances 01-0-1118 and 94-0-1774 attached to this legislation as Exhibit I authorized the various and combined sanitary sewer capital improvement projects required by the Consent Decree; and

WHEREAS, the West Area Combined Sewer Overflow is an integral part of the requirements under the Consent Decree; and

WHEREAS, the City of Atlanta (the "City") proposes to install, maintain and operate a 24 foot finished diameter, deep rock tunnel located under or across the right of way or property and any tracks owned or controlled by Norfolk Southern Railway Company ("Railway") at or near various locations throughout the City; and

WHEREAS, the Railway has indicated its willingness to allow the City to install, maintain and operate a 24 foot finished diameter tunnel across the right of way or property or tracks owned or controlled by Railway, subject to an agreement containing substantially the same terms as those reflected in the Agreement ("Agreement") attached to this legislation as Exhibit II; and

WHEREAS, the Commissioner of the Department of Watershed Management and the Chief Procurement Officer in the Department of Procurement have recommended Agreement for license fees associated with the utilization of right of way or property FC-6005007982, Right-of Way License Agreement with Norfolk Southern Railway Company in an amount not to exceed One Hundred Forty Two Thousand Eight Hundred Seventy Four Dollars and no cents (\$142,874.00).

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ATLANTA, GEORGIA, that the Mayor be and is hereby authorized to enter into an Agreement with Norfolk Southern Railway for FC-6005007982, in an amount not to exceed One Hundred Forty Two Thousand Eight Hundred Seventy Four Dollars (\$142,874.00).

BE IT FURTHER RESOLVED, that the Chief Procurement Officer is hereby directed to prepare an appropriate Agreement for execution by the Mayor, to be approved by the City Attorney as to form.

BE IT FURTHER RESOLVED, that the term of the Agreement shall be for a period of one (1) year to utilize tracks owned and controlled by the Norfolk Southern Railway Company.

BE IT FURTHER RESOLVED, that this Agreement shall not become binding on the City, and the City shall incur no liability upon same until such contract has been executed by the Mayor and delivered to the contracting party.

BE IT FINALLY RESOLVED, that all services for said contracted work shall be charged to and paid from Fund Account and Center Numbers: **2J28 (2004 Water & Wastewater Bond) 572001 (Easements) Q38102679999 (CSO-West Tunnels) (\$142, 874.00).**

EXHIBIT I

AN ORDINANCE

BY:

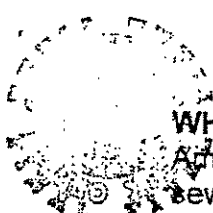
U.E. McCarty
Clayton Wilson
Shirley Dorsey

AN ORDINANCE TO AMEND ORDINANCES 94-O-1774, 95-O-0504 AND 00-O-1207 CONCERNING THE COMPLETION OF PROJECTS DESIGNATED AS PART OF THE 1994 BOND AND SEWER CAPITAL IMPROVEMENT PROJECTS; TO AMEND EXHIBIT "A" REFERENCED IN OR ATTACHED TO THOSE ORDINANCES TO INCLUDE CERTAIN ADDITIONAL COMBINED AND SANITARY SEWER CAPITAL IMPROVEMENT PROJECTS REQUIRED BY THE CONSENT DECREE (CSO) AND FIRST AMENDED CONSENT DECREE (SSO); AND FOR OTHER PURPOSES.

WHEREAS, Ordinance 94-O-1774, adopted by the Atlanta City Council on November 7, 1994, and approved by the Mayor on November 10, 1994, waived Section 5-5026 of the Procurement and Real Estate Code and authorized the Mayor, or his designee, to enter into contracts and to issue notices to proceed for various surveying, geotechnical, design, acquisition, inspection and related services needed to accomplish the list of infrastructure improvement projects ("collectively, the "1994 Public Improvement Program List") described on Exhibit "A" of that ordinance; a copy of Ordinance 94-O-1774 is attached as Exhibit 1; and

WHEREAS, subsequently, Ordinance 95-O-0504 amended Ordinance 94-O-1774 and authorized the Mayor or his designee, or the Purchasing agent, to negotiate with property owners to acquire necessary rights-of-way and temporary or permanent construction easements and other related property interests necessary to complete the 1994 Public Improvement Program List; a copy of Ordinance 95-O-0504 is attached as Exhibit 2; and

WHEREAS, subsequently, Ordinance 00-O-1207 further amended Ordinances 94-O-1774 and 95-O-0504 and authorized the City Attorney to proceed with declarations of taking as a method of condemnation, as authorized by O.C.G.A. Sections 22-3-140 and 32-3-4, for the construction and completion of the 1994 Public Improvement Program List, and to institute condemnation proceedings pursuant to the declarations of taking to acquire title to rights-of-way, easements, and other related property interests necessary for those projects; a copy of Ordinance 00-O-1207 is attached as Exhibit 3; and



WHEREAS, The City is required by the Consent Decree (CSO) and First Amended Consent Decree (SSO) to construct additional combined and sanitary sewer capital improvement projects; and

WHEREAS, The City is also required by the First Amended Consent Decree to conduct a Sanitary Sewer System Evaluation (SSES) of its entire combined and sanitary sewer system and make necessary improvements to eliminate sewer system overflows; and

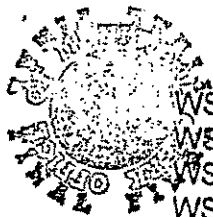
WHEREAS, The City is further required by the First Amended Consent Decree to conduct SSES studies of its combined and sanitary sewer system by organizing the system into 6 distinct sewer groups; and

WHEREAS, it has been determined to be desirable and in the best interests of the City to amend the 1994 Public Improvement Program Project List to include these additional projects and activities associated with improvements to the City's sewer system, which are expected to require the acquisition of additional property rights on behalf of the City to implement, as required by the Consent Decree (CSO) and First Amended Consent Decree (SSO).

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF ATLANTA, GEORGIA, as follows:

Section 1: That the 1994 Public Improvement Program List attached Exhibit "A" to Ordinance 94-O-1774 and Ordinance 95-O-0504, and further addressed in Ordinance 00-O-1207, is amended to include the following projects:

- | | |
|---------|---|
| WSRE 16 | Veterans Hospital Trunk Sewer Improvement Project |
| WSRE 17 | Indian Creek/Highland Trunk Sewer Improvement Project |
| WSRE 18 | Rivers Road Sewer Rehabilitation Project |
| WSRE 19 | Sewer Group 1 Sanitary Sewer Evaluation Study Project |
| WSRE 20 | Sewer Group 2 Sanitary Sewer Evaluation Study Project |
| WSRE 21 | Sewer Group 3 Sanitary Sewer Evaluation Study Project |
| WSRE 22 | Sewer Group 4 Sanitary Sewer Evaluation Study Project |
| WSRE 23 | Sewer Group 5 Sanitary Sewer Evaluation Study Project |
| WSRE 24 | Sewer Group 6 Sanitary Sewer Evaluation Study Project |
| WSRE 25 | Nancy Creek Tunnel Project |
| WSRE 26 | Orme Street/Tanyard Creek Interceptor Sewer Improvement Project |
| WSRE 27 | Stockade Trunk Sewer Improvements Project |
| WSRE 28 | East Side Combined Sewer System Improvements |
| WSRE 29 | West Side Combined Sewer System Improvements |
| WSRE 30 | Proctor/Sandy Creek Force Main and Outfall Sewer Improvements |
| WSRE 31 | Sewer System Rights-of-Way Access and Maintenance (Citywide) |
| WSRE 32 | Flint River Pump Station, Force Main and Outfall Sewer Improvements |



WSRE 33 White Provision Trunk Sewer Improvements
WSRE 34 Tanyard Creek Trunk (Interceptor) Sewer Improvements
WSRE 35 Sugar Creek Trunk Sewer Basin Improvements
WSRE 36 Proctor Creek Trunk Sewer Improvements
WSRE 37 South and North Fork Utoy Creek Trunk and Relief Sewer
Improvements

Section 2: That the waivers and authorizations set forth in Ordinance 94-O-1774, Ordinance 95-O-0504 and Ordinance 00-O-1207 will apply to the additional projects set forth on the amended 1994 Public Improvement Program List.

Section 3: That costs associated with this Ordinance and the additional projects set forth on the amended 1994 Public Improvements Program List will be charged to and paid from the appropriate accounts and centers of Funds 2J21, 2J24, 2J25, 2J26 as previously approved by the City Council in Ordinance 95-O-0504 and future Water and Sewer bond funds.

Section 4: That, except as amended by this Ordinance, Ordinance 94-O-1774, Ordinance 95-O-0504 and Ordinance 00-O-1207 remain unchanged and of full force and effect.

A true copy,

Rhonda Daughin Johnson
Municipal Clerk, CMO

ADOPTED by the Council
APPROVED by the Mayor

SEP 04, 2001
SEP 11, 2001



**MUNICIPAL CLERK
ATLANTA, GEORGIA**

**AN AMENDED SUBSTITUTE ORDINANCE
BY FINANCE COMMITTEE**

94-0-1774

AN AMENDED SUBSTITUTE ORDINANCE TO AN ORDINANCE BY CITY UTILITIES, HUMAN RESOURCES, EXECUTIVE, AND FINANCE COMMITTEES TO AUTHORIZE THE MAYOR TO ENTER INTO CONTRACTS FOR VARIOUS SERVICES IN ORDER TO COMPLETE PROJECTS DESIGNATED AS PART OF THE 1994 BOND AND SEWER CAPITAL IMPROVEMENTS PROJECT; TO WAIVE SECTION 5-5026 OF THE CODE OF ORDINANCES; TO AMEND THE 1994 G.O. BOND FUND BUDGET; TO AMEND THE 1994 (WATER AND SEWERAGE 1993 CONSTRUCTION FUND) BUDGET; TO REPEAL CONFLICTING ORDINANCES; AND FOR OTHER PURPOSES.

WHEREAS, on July 19, 1994, the citizens of the City of Atlanta overwhelmingly approved the issuance of \$150,000,000 of general obligation public improvement bonds for the undertaking of infrastructure improvement projects; and

WHEREAS, the City Council adopted Resolution 94-R-0894 on May 16, 1994, which listed the capital projects that the Council and Mayor intended to be financed by the previously mentioned bonds; and

WHEREAS, the City Council has previously approved certain sanitary and combined sewer improvements to be done as a part of the Comprehensive Development Plan (CDP) and the Capital Improvement Plan (CIP) and has authorized funding of projects from previously authorized water/sewer revenue bond issues; and

WHEREAS, the City Council and the Mayor wish to facilitate the implementation of these projects, particularly those that must be completed before the 1996 Olympic Games, and wish to accelerate the bidding and awarding of contracts in order to procure appropriate services for the rapid implementation of the identified projects; and

WHEREAS, the Department of Public Works is in the process of implementing a major sewer rehabilitation and construction program;

WHEREAS, the Mayor has recommended the use of the "Program Management" concept to accomplish the most efficient delivery of design and construction services for the identified projects, and thus, is in the best interests of the City; and



WHEREAS, the Mayor will dedicate full-time purchasing officers and contract compliance specialists to the staff of the program managers for the purpose of ensuring the consistent implementation of the City's competitive procurement process, equal employment opportunity requirements, "First Source" jobs ordinance, and the Equal Business Opportunity Program; and

WHEREAS, the Mayor will dedicate a financial analyst/auditor to the staff of the program managers for the purpose of conducting contract progress analysis and assisting in financial documentation; and

WHEREAS, prices in the local construction market have escalated in recent months and market conditions are expected to continue to tighten as the 1996 Olympic Games approach, thereby making construction, labor and materials more expensive; and

WHEREAS, it is necessary to allocate funds to the appropriate accounts to cover the cost of design, program management, insurance and construction; and

WHEREAS, in recognition of these factors, and in view of the fact that the City Council and Mayor wish to develop streamline processes in order to facilitate the rapid implementation of the aforementioned projects which will be of the greatest benefit to the City;

NOW THEREFORE BE IT ORDAINED AS FOLLOWS:

SECTION ONE:

That the Mayor or his designee is authorized to enter into contracts for various surveying, geotechnical, design, acquisition, inspection, and related services needed to accomplish the list of projects described by Exhibit "A".

SECTION TWO:

That this ordinance shall authorize the Mayor to issue Notices to Proceed at the appropriate times for various surveying, geotechnical, design, acquisition, inspection, and related services needed to accomplish the attached lists of projects.

SECTION THREE:

That contract solicitations and awards for all surveying, geotechnical, design, acquisition, construction, inspection, and related services needed to accomplish the attached lists of projects shall be awarded pursuant to all relevant provisions of Part 5, Chapter 5 of the Code of Ordinances.



SECTION FOUR:

That contracts for various surveying, geotechnical, design, acquisition, construction, inspection, and related services needed to accomplish the attached lists of projects shall all be awarded and administered pursuant to Part 5, Chapter 5, Articles L and M of the Code of Ordinances, *i.e.* the Equal Employment Opportunity and Equal Business Opportunity Program.

SECTION FIVE:

That contracts for various surveying, geotechnical, design, acquisition, construction, inspection, and related services needed to accomplish the attached lists of projects shall all be administered pursuant to Part 5, Chapter 8 of the Code of Ordinances, *i.e.* First Source Jobs Policy.

SECTION SIX:

That the requirements of City Code Section 5-5026 are waived for contracts described in Section 1 and 2 of this Ordinance, but not those projects described in any other Section of this Ordinance, including but not limited to Sections 10 and 11.

SECTION SEVEN:

That the combined amount for all projects in any category, *i.e.* "roads and bridges", shall not exceed the total dollar amount approved in the July 1994 referendum.

SECTION EIGHT:

That in the event the combined amount for all contractual services needed for any one of the listed projects exceeds by 15% the original estimated amount, change orders and/or contract amendments shall be approved by the Atlanta City Council.

SECTION NINE:

That on a monthly basis the Mayor or his designee shall provide a detailed report to the City Council of all contracting activities carried out as part of the capital improvement projects authorized by this legislation, to include the following information:

- Contract Awards
- Projected vs. Actual Costs
- EBO goals vs. Actual EBO Participation
- Project Status (including design details and community participation activity)
- First Source Participation

SECTION TEN:

That all construction contracts for the projects on the attached list must be approved by the City Council. Any contractual arrangements and notices to proceed other than for the capital improvement projects on the attached list must be approved by the City Council.



SECTION ELEVEN:

That the Council shall consider all contracts for construction of projects on the attached list, and all change orders or contract amendments for said contracts for which the Purchasing Code provides for Council action, with an expedited process for approval. Said expedited process shall utilize the Committee of the Whole, Special Council Meetings, staff cooperation, and any other reasonable process so that within ten business days after the Mayor has given written notice via resolution to a committee or to the Council as a whole that the project(s) is ready to proceed, Council must take action on those projects which are ready to proceed, or waive its right to do so.

SECTION TWELVE:

That up to 10% of the contracts for projects on the attached list will be audited upon completion of the performance of the work.

SECTION THIRTEEN:

That the 1994 (G.O. Public Improvement Bond Fund) Budget be and is hereby amended as follows:

TRANSFER FROM APPROPRIATIONS

1C33 774001	M22F041692BA	Spring Street Viaduct	\$2,765,621.00
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TRANSFER TO APPROPRIATIONS

1C33 724001	M22F016192BA	Program Management	\$ 915,256.00
1C33 724001	M24I014892BB	Program Management	1,671,779.00
1C33 724001	M22I017792BC	Program Management	<u>178,586.00</u>
			\$2,765,621.00

SECTION FOURTEEN:

That The 1994 (Water And Sewerage 1993 Construction Fund) Budget be amended as follows:

TRANSFER FROM APPROPRIATIONS

2J24 774001	M24I02419999	Facil. Other than Bldgs.	\$10,590,376.00
2J24 774001	M58I21039999	Facil. Other than Bldgs.	<u>20,400,650.00</u>
			\$30,991,026.00



TRANSFER TO APPROPRIATIONS

2J24 724001	M24I02499999	Consultant/Prof. Services	\$ 700,551.00
2J24 729007	M24I02499999	Insurance Expense	742,000.00
2J24 724001	M24I02509999	Consultant/Prof. Services	764,625.00
2J24 729007	M24I02509999	Insurance Expense	812,000.00
2J24 724001	M24I02169999	Consultant/Prof. Services	956,850.00
2J24 729007	M24I02169999	Insurance Expense	1,015,000.00
2J24 774007	M24I02169999	Facil Other than Bldgs.	<u>26,000,000.00</u>
			\$ 30,991,026.00

SECTION FIFTEEN:

That the 1994 (G.O. Public Improvement Bond Fund) be and is hereby amended as follows:

TRANSFER FROM APPROPRIATIONS

Bridges, Viaducts and Streets

1C33 7*****	M22F041492BA	Hollywood Road Bridge	\$ 51,100.00
1C33 7*****	M22F041592BA	Montgomery Ferry Bridge	28,420.00
1C33 7*****	M22F041692BA	Spring Street Viaduct	1,383,898.00
1C33 7*****	M22F040592BA	Lakewood Avenue Bridge	74,550.00
1C33 7*****	M22F040992BA	Brownlee Road Bridge	24,850.00
1C33 7*****	M22F041892BA	Tell Bridge Road	23,330.00
1C33 7*****	M22F041992BA	Macon Drive Bridge	22,330.00
1C33 7*****	M22F013092BA	Greenbriar Parkway Reconstruction	70,980.00
1C33 7*****	M22F013192BA	Campbellton Rd. Widening Phase II	248,430.00
1C33 7*****	M22F013892BA	Glenwood Avenue	14,210.00
1C33 7*****	M22G020792BA	Freeway Lighting (Phases II-IV)	193,690.00
1C33 7*****	M22F015592BA	MLK/Fairburn Road	14,210.00
1C33 7*****	M22F012992BA	Roxboro Road Widening	99,365.00
1C33 7*****	M22F041392BA	Mitchell Street	139,104.00
1C33 7*****	M22F041792BA	Wall Street	46,130.00
1C33 7*****	M22F042092BA	Stone Road Bridge	2,695.00
1C33 7*****	M22F02029BA	Hill Street Concrete Plant	2,485.00



Stormwater Drainage Facilities

1C33 7*****	M24I013292BB	Terrel Creek Phase III Storm Sewer	\$3,850.00
1C33 7*****	M24I013392BB	Terrel Creek Phase IV Storm Sewer	\$3,850.00
1C33 7*****	M24I013494BB	Thomasville Heights Storm Sewer	27,160.00
1C33 7*****	M24I013592BB	Branch Drive Stream Bank	3,920.00
1C33 7*****	M24I013692BB	Holly Wright Neighborhood Storm	4,620.00
1C33 7*****	M24I013792BB	Calvert Lane NE Storm Sewer	1,960.00
1C33 7*****	M24I013892BB	Charline Ave. Storm Sewer	8,960.00
1C33 7*****	M24I013992BB	Mt. Gilead Road Culvert	6,650.00
1C33 7*****	M24I014092BB	Pharr Rd NE Storm Sewer	4,340.00
1C33 7*****	M24I014192BB	W. Wieuca Rd. Storm Sewer	3,850.00
1C33 7*****	M24I014292BB	Winall Down Road Storm Sewer	28,000.00
1C33 7*****	M24I014392BB	Greenview Ave. NE Storm Sewer	3,640.00
1C33 7*****	M24I014492BB	Storm Sewer CDIA	45,500.00
1C33 7*****	M24I017292BB	S'hill/P'town/M'ville/V.C. Drainage	280,000.00
1C33 7*****	M24I012492BB	Federal Prison Creek	21,000.00
1C33 7*****	M24I012592BB	Proctor Creek Basin	25,200.00
1C33 7*****	M24I012692BB	Indian Creek	40,600.00
1C33 7*****	M24I012792BB	Nancy Creek	26,600.00
1C33 7*****	M24I011292BB	Proctor Creek-Streambank	25,200.00
1C33 7*****	M24I011092BB	Terrel Creek Sewer	14,000.00
1C33 7*****	M24I012892BB	Utoy Creek Streambank	27,300.00
1C33 7*****	M24I012992BB	Peachtree Creek Drainage Basin	92,400.00
1C33 7*****	M24I013092BB	Peachtree Creek Streambank Prot.	20,300.00
1C33 7*****	M24I013192BB	Utoy Creek Drainage Basin	27,300.00
1C33 7*****	M24I014592BB	South River Drainage Basin	14,000.00
1C33 7*****	M24I014692BB	Sugar Creek Drainage Basin	7,000.00

Erosion and Flood Control

1C33 7*****	M22I030192BC	English Park	\$29,260.00
1C33 7*****	M22I030292BC	Bitsy Grant Park	25,060.00
1C33 7*****	M22I030392BC	Wesley Coan Park	12,530.00
1C33 7*****	M22I030492BC	Cleveland Avenue Park	4,200.00
1C33 7*****	M22I030592BC	Brownwood Ave. Park	21,000.00
1C33 7*****	M22I030892BC	Winn Park	21,000.00
1C33 7*****	M22I030992BC	Candler Park	21,000.00
1C33 7*****	M22I031092BC	Garden Hills Park	8,330.00
1C33 7*****	M22I031192BC	Frankie Allen Park	20,930.00
1C33 7*****	M22I031292BC	Adams Park	83,650.00
1C33 7*****	M22I031392BC	Perkerson Park	21,000.00



1C33 7*****	M22I031492BC	Isabel Gates Webster Park	5,040.00
1C33 7*****	M22I031592BC	Ben Hill Park	4,200.00
1C33 7*****	M22I031692BC	Oakland Cemetary Wall	209,020.00
1C33 7*****	M22I030692BC	Grant Park	31,300.00
1C33 7*****	M22I030792BC	Piedmont Park	<u>62,716.00</u>
Total			\$ 3,785,513.00

TRANSFER TO APPROPRIATIONS

1C33 7*****	M22F016292AB	Insurance Program (OCIP)	\$ 2,438,777.00
1C33 7*****	M24I014992BB	Insurance Program (OCIP)	766,500.00
1C33 7*****	M22I031892BC	Insurance Program (OCIP)	<u>580,236.00</u>
Total			\$ 3,785,513.00

SECTION SIXTEEN:

That all ordinances or parts of ordinances in conflict herewith are hereby repealed.

A true copy.

Rhonda Dwyer Johnson
Deputy Clerk, OMC

ADOPTED as amended
APPROVED by the Mayor

November 07, 1994
November 10, 1994



1994 Public Improvement Program List

STREETS AND BRIDGES

GO-01	Mitchell Street Viaduct Over CSX & Norfolk-Southern Railroads
GO-02	Hollywood Road Bridge Over Proctor Creek
GO-03	Montgomery Ferry Road Bridge Over Norfolk-Southern Railroad
GO-04	Spring Street Viaduct Over CSX & Norfolk-Southern Railroad
GO-05	Lakewood Avenue Bridge Over Norfolk-Southern Railroad
GO-06	Wall Street Viaduct Over Lower Wall Street
GO-07	Brownlee Road Bridge Over Utoy Creek
GO-08	Tell Road Bridge Over Camp Creek Tributary
GO-09	Macon Drive Bridge Over South River
GO-10	Stone Road Bridge Over North Fork Camp Creek
GO-37	Roxboro Road Widening
GO-38	Greenbriar Parkway Reconstruction
GO-39	Campbellton Road Widening, Phase I
GO-45	Bankhead Highway Widening
GO-46	Glenwood Avenue Relocation
GO-47	Howell Mill Road Widening
GO-48	Northside Drive Intersection Improvements
GO-50	Freeway Lighting, Phases II - IV
GO-51	Mechanicsville Streets
GO-52	Peopletown Streets
GO-53	Atlanta University Streets
GO-54	Butler Street & Auburn Avenue Streets
GO-55	Vine City & Ashby Street Streets
GO-56	Summerhill Streets
GO-57	Old Fourth Ward Streets
GO-58	Pittsburgh Streets
GO-59	Castleberry Hill Streets
GO-60	Washington Park Streets
GO-61	English Avenue Streets
GO-62	Ashview Heights Streets
GO-63	Home Park Streets
GO-64	Adair Park Streets
GO-65	MLK/Fairburn Road Realignment
GO-66	Hill Street Concrete Plant

STORMWATER DRAINAGE FACILITIES

GO-11	Federal Prison Creek Drainage Improvements
GO-12	Proctor Creek Basin Improvements
GO-13	Indian Creek Drainage Improvements
GO-14	Nancy Creek Streambank Protection
GO-15	Proctor Creek - Streambank Protection

1994 Public Improvement Program List

GO-16	Terrel Creek Storm Sewer Improvements
GO-17	Utoy Creek Streambank Protection
GO-18	Peachtree Creek Drainage Improvements
GO-19	Peachtree Creek Streambank Protection
GO-20	Utoy Creek Drainage Basin Improvements
GO-21	Terrel Creek Phase III Storm Sewer
GO-22	Terrel Creek Phase IV Storm Sewer
GO-23	Thomasville Heights Storm Sewer
GO-24	Branch Drive Streambank Protection
GO-25	Holly Wright Neighborhood Storm Drainage
GO-26	Calvert Lane NE Storm Sewer
GO-27	Charline Avenue Storm Sewer
GO-28	Mount Gilead Road Culvert
GO-29	Pharr Road NE Storm Sewer
GO-30	West Wieuca Road Storm Sewer
GO-31	Winall Down Road Storm Sewer
GO-32	Greenview Avenue NE Storm Sewer
GO-33	Storm Sewer CDIA
GO-34	South River Drainage Basin Improvements
GO-35	Sugar Creek Drainage Basin Improvements
GO-36	Summerhill, Peoplestown/Mechanicsville/Vine City Drainage Improvements

EROSION AND FLOOD CONTROL

GO-67	English Park Erosion & Flood Control
GO-68	Bitsy Grant Tennis Center Erosion & Flood Control
GO-69	Wesley Coan Park Erosion & Flood Control
GO-70	Cleveland Avenue Park Erosion & Flood Control
GO-71	Brownwood Park Erosion & Flood Control
GO-72	Grant Park Erosion & Flood Control
GO-73	Piedmont Park Erosion & Flood Control
GO-74	Winn Park Erosion & Flood Control
GO-75	Candler Park Erosion & Flood Control
GO-76	Garden Hills Park Erosion & Flood Control
GO-77	Frankie Allen Park Erosion & Flood Control
GO-78	Adams Park Erosion & Flood Control
GO-79	Perkerson Park Erosion & Flood Control
GO-80	Isabel Gates Webster Park Erosion & Flood Control
GO-81	Ben Hill Park Erosion & Flood Control
GO-82	Oakland Cemetery Wall Collapse



1994 Public Improvement Program List

SEWER SYSTEM IMPROVEMENTS

- WSRE 1 North Fork Peachtree Trunk
- WSRE 2 South Fork Peachtree Trunk
- WSRE 3 Orme Street Trunk Relief Phases I, II, III & IV
- WSRE 4 Peachtree Interceptor Sanitary Sewer
- WSRE 5 Lloyd Street Trunk Sewer
- WSRE 6 Shadowlawn Basin Sewer Replacements
- WSRE 7 Fairmont/Glidden CSO
- WSRE 8 Brotherton Trunk Replacement
- WSRE 9 Butler Street Trunk Reconstruction
- WSRE 10 Mineral Springs Trunk Sewer
- WSRE 11 Pine Meadows Sewer Reconstruction
- WSRE 12 Nancy Creek Force Main
- WSRE 13 Tenth Street Trunk Sewers - SSES
- WSRE 14 Atlantic Steel Sewer
- WSRE 15 Utoy Creek Basin, Combined Sewer Separation

EXHIBIT 1 (11/7/94 Amendment)

EXHIBIT II

THIS AGREEMENT, made and entered into by and between

NORFOLK SOUTHERN RAILWAY COMPANY, a Virginia corporation, whose mailing address is Three Commercial Place, Norfolk, Virginia, 23510 hereinafter referred to as "Railway"; and

CITY OF ATLANTA, a Georgia municipal corporation, under the laws of the State of Georgia, whose mailing address is 55 Trinity Avenue, Suite 5400, Atlanta, Georgia 30335, hereinafter referred to as "Licensee".

WITNESSETH

WHEREAS, Licensee proposes to install, maintain and operate a 24 ft. finished diameter, deep rock tunnel, solely for the transmission of wastewater, located under or across the right of way or property and any tracks of Railway at or near Atlanta, County of Fulton, State of Georgia, located between Brookwood Station to Mecaslin Street to Northside Drive to Howell Mill Road and underneath Howell Junction and Inman Yards, near Mileposts 633.56, 633.90, 634.47, 634.72, 150.02-H and 149.32-H, shown on print of Licensee's Drawing Numbers F470-03-C, F469-03-C, F467-03-C, F471-03-C, dated Sept 5, 2003 and Drawing Number F430c-03-B, dated Sept 9, 2003, attached hereto and made a part hereof (hereinafter called the "Facilities");

NOW, THEREFORE, in consideration of the premises, payment of a non-refundable, non assignable, one-time license fee of ONE HUNDRED FORTY TWO THOUSAND EIGHT HUNDRED SEVENTY FOUR AND 00/100 U.S. DOLLARS (\$142,874.00) and the covenants hereafter made, Railway hereby permits and grants Licensee, insofar as the Railway has the right to do, without warranty and subject to all encumbrances, covenants and easements to which Railway's title may be subject, the right to use and to occupy so much of Railway's property as may be necessary for the Facilities, upon the following terms and conditions.

1. Licensee will construct and maintain the Facilities at its expense in such a manner as will not interfere with the operations of Railway or endanger persons or property of Railway, and in accordance with (a) plans, specifications (if any) shown on said prints and any other specifications prescribed by Railway, (b) applicable governmental regulations or laws, and (c) applicable specifications adopted by the American Railway Engineering Association when not in conflict with plans, specifications or regulations mentioned in (a) and (b) above. For the purposes of this Agreement, maintenance of the Facilities shall be deemed to mean replacement in kind. Any change to the character or capacity of the Facilities shall be considered an upgrade and will require execution of a new agreement.

2. To the extent permitted by State law, Licensee hereby agrees to indemnify and save harmless Railway, its officers, agents and employees, from and against any and all liability, claims, losses, damages, expenses (including attorneys' fees) or costs for personal injuries (including death) and/or property damage to whomsoever or whatsoever occurring which arises in any manner from the installation, maintenance, operation, presence or removal or the failure to properly install, maintain, operate or remove the Facilities, unless such losses, damages or injuries shall be caused solely by the negligence of the Railway.

3. Licensee assumes all responsibility for any environmental obligations

imposed under applicable laws, regulations or ordinances relating to the installation of the Facilities and/or to any contamination of any property, water, air or groundwater arising or resulting from Licensee's permitted operations or uses of Railway's property pursuant to this Agreement. In addition, Licensee shall obtain any necessary permits to install the Facilities. To the extent permitted by State law, Licensee hereby agrees to indemnify and hold harmless Railway from and against any and all liability, fines, penalties, claims, demands, costs (including attorneys' fees), losses or lawsuits brought by any person, company or governmental entity relating to contamination of any property, water, air or groundwater due to the use or presence of the Facilities, unless such contamination, shall be caused solely by the negligence of the Railway. It is agreed that this indemnity provision extends to any cleanup costs related to Licensee's activities upon Railway property and to any costs related to cleanup of the Facilities or to other property caused by the use of the Facilities.

4 (a). Without limiting in any manner the liability and obligations assumed by Licensee under any other provisions of this Agreement, and as additional protection to Railway, Licensee shall procure and maintain with insurance companies satisfactory to Railway, the insurance policies described in subparagraphs (i) and (ii):

- (i) Prior to the commencement of installation or maintenance of the Facilities or entry on Railway's property, Licensee, and its contractor if it employs one, shall procure and maintain for the course of said installation and maintenance a general liability insurance policy naming Railway as an additional insured, and containing products and completed operations and contractual liability coverage with a combined single limit of not less than \$1,000,000 for each occurrence.
- (ii) Prior to the commencement of any subsequent maintenance of the Facilities during the term of this Agreement, Licensee, or its contractor if it employs one, shall furnish Railway with an original Railroad Protective Liability Insurance Policy naming Railway as the named insured, and having a limit of not less than a combined single limit of \$2,000,000 for each occurrence and \$6,000,000 aggregate.

(b) All insurance required under preceding subsection (a) shall be underwritten by insurers and shall be of such form and content as may be acceptable to Railway. Prior to commencement of installation or maintenance of the Facilities or any entry on railway's property, Licensee, or its contractors if it employs one, shall furnish to Railway's Risk Manager, Three Commercial Place, Norfolk, Virginia, 25310-2191 (or such other representative and/or address as subsequently given by Railway to Licensee in writing), for approval, the original policy described in subsection (a)(ii) and a certificate of insurance evidencing the existence of a policy with the coverage described in subsection (a)(i).

5. The details of the Facilities to be installed and maintained shall be at the option of the Licensee, and subject to the approval of the chief engineering officer of the Railway. In case of failure of Licensee to do the work as herein specified, railway reserves the right to remove the Facilities from railway's premises at the expense of the Licensee, and to terminate this Agreement upon ten (10) days written notice.

6. If Railway shall make any changes, alterations in or additions to the line, grade,

tracks, structures, roadbed, installations or works of Railway at or near the Facilities, Licensee shall at its own cost and expense, upon thirty (30) days notice in writing from Railway, make such changes in the location and character of the Facilities as, in the opinion of the chief engineering officer of the Railway, shall be necessary or appropriate to accommodate any construction, improvements, alterations, changes or additions of Railway.

7. Licensee will notify Railway prior to the installation and placing in service of cathodic protection in order that tests may be conducted on railway's signal, communications and other electronic systems for possible interference. If the Facilities cause degradation of the signal, communications or other electronic facilities of Railway, Licensee, at its expense, will relocate the cathodic protection and/or modify the Facilities to the satisfaction of Railway so as to eliminate such degradation. Such modifications may include, without limiting the generality of the foregoing, providing additional shielding, reactances or other corrective measures deemed necessary by Railway. This provision applies to the existing signal, communications and electronic equipment of Railway and to any signal, communications or electronic equipment which Railway may install in the future.

8. If Licensee fails to take any corrective measures requested by Railway in a timely manner or if an emergency situation is presented which in the Railway's judgment, requires immediate repairs to the Facilities, Railway, at Licensee's expense, may undertake such corrective measures or repairs as it deems necessary or desirable.

9. Notwithstanding any other provisions of this Agreement, it is understood and covenanted that Licensee accepts this Agreement as a mere license and assumes all risk of damage to its property by reason of its occupation of the premises herein described caused by any defects therein or business thereon, whether caused by the negligence of Railway or its officers, agents, employees, or otherwise, and Licensee, to the fullest extent permitted by State law (Constitutional or Statutory, as amended) hereby indemnifies railway, its officers, agents and employees, from and against any such liability for said damage.

10. It is further agreed between the parties that the premises shall be used by Licensee only for the Facilities and for no other purpose without the written permission of the chief engineering officer of the railway.

11. Licensee shall give Railway seventy-two (72) hours' advance notice (or less in case of emergencies) of any work to be performed on the premises of Railway. Licensee agrees to pay any costs incurred by Railway during installation, maintenance, operation, modification, replacement and/or removal of the Facilities.

12. Licensee shall not assign this Agreement without written consent of Railway.

13. The word "Railway" as used herein shall include any other company whose property at the aforesaid location may be leased or operated by Railway. Said term shall also include Railway's officers, agents and employees, and any parent company, subsidiary or affiliate of railway and their officers, agents and employees.

14. This Agreement may be terminated by either party upon sixty (60) days written

notice to the other party. During said sixty day period, Licensee shall remove the Facilities from Railway's premises and restore said premises to a condition satisfactory to the Railway's chief engineering officer. If Licensee fails to remove the Facilities within the aforesaid sixty day period, Railway may elect : (a) to become the owner of the facilities without any claim or consideration whatsoever therefor by or to Licensee, its successors or assigns, (b) to remove the Facilities and all property of Licensee from the premises of Railway at the expense of Licensee. Licensee agrees to reimburse Railway for any and all costs of such removal. No termination of this Agreement shall affect any liability incurred by either party prior to the effective date of such termination.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement in duplicate each part being an original as of the _____ day of _____, 2005.

Witness:

**NORFOLK SOUTHERN RAILWAY
COMPANY**

As to Railway

By: _____
Real Estate Manager

Print/Type Title: _____

Witness:

**CITY OF ATLANTA DEPARTMENT OF
WATERSHED MANAGEMENT**

As to Licensee

By: _____
Title _____

By: _____
Title: Chief Procurement Officer

Tax Identification Number: 58-6000511

Authority under Ordinance or
Resolution No: 01-O-1118
Dated: September 11, 2001

Approved as to form:

Assistant City Attorney

Deputy Municipal Clerk

LEGISLATIVE SUMMARY

TO: CITY UTILITIES COMMITTEE

CAPTION

A RESOLUTION AUTHORIZING THE MAYOR OR DESIGNEE TO ENTER INTO AN APPROPRIATE AGREEMENT FC-6005007982, RIGHT-OF-WAY LICENSE AGREEMENT WITH NORFOLK SOUTHERN RAILWAY COMPANY, ON BEHALF OF THE DEPARTMENT OF WATERSHED MANAGEMENT, IN AN AMOUNT NOT TO EXCEED ONE HUNDRED FORTY TWO THOUSAND EIGHT HUNDRED SEVENTY FOUR DOLLARS AND NO CENTS (\$142,874.00). ALL CONTRACTED WORK SHALL BE CHARGED TO AND PAID FROM FUND ACCOUNT CENTER NUMBER: 2J28 (2004 WATER AND WASTEWATER BOND) 572001 (EASEMENTS) Q38102679999 CENTER (CS0-WEST TUNNELS).

Council Meeting Date:	September 19, 2005
Legislation Title:	FC-6005007982, Right of Way License Agreement
Requesting Dept.:	Department of Watershed Management
Contract Type:	License Agreement

Background:	TO COVER LICENSE FEES ASSOCIATED WITH THE UTILIZATION OF RIGHT OF WAY OR PROPERTY AND ANY TRACKS OF RAILWAY AT OR NEAR ATLANTA, COUNTY OF FULTON, STATE OF GEORGIA, LOCATED BETWEEN BROOKWOOD STATION TO MESCALIN STREET TO NORTHSIDE DRIVE TO HOWELL MILL ROAD AND UNDERNEATH HOWELL JUNCTION AND INMAN YARDS, NEAR VARIOUS SPECIFIED MILEPOSTS.
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Justification:	Ordinances 01-0-1118 and 94-0-1774, attached as Exhibit I, authorize the various and combined sanitary sewer capital improvement projects required by the consent decree. Further, the Licensor agrees to provide the Licensee, the City, the right to occupy, possess and use its properties within the various areas of Railway for the purpose of installation, maintenance, and operation of a tunnel for the transmission of wastewater under or across tracks owned and controlled by the Licensor.
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Term of Contract: one (1) year

Contract Value: \$142,874.00

Fund Account Center: All services for said contracted work for the Agreement in the amount of One Hundred Forty Two Thousand Eight Hundred Seventy Four Dollars shall be charged to and paid from fund account and center numbers: 2J28 (2004 Water and Wastewater Bond) 572001 (Easements) Q38102679999 (CSO-West Tunnels).

Prepared By: Erin K. Jenkins

Contact Number: (404) 330-6950